

2:07CV759 mht
Page 2

RECEIVED
**MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT
 SENTENCE BY A PERSON IN FEDERAL CUSTODY**

United States District Court DEBRA P. HACKETT, CLK		District Middle District of Alabama
Name (under which you were convicted): Tobie Melissa Kirkland		Docket or Case No.: CR - 0264-MHT
Place of Confinement: FCI - Tallahassee Florida		Prisoner No.: 11338-002
UNITED STATES OF AMERICA		Movant (include name under which you were convicted) v. Tobie Melissa Kirkland

MOTION

- (a) Name and location of court that entered the judgment of conviction you are challenging: _____
 Middle District of Alabama
 One Church Street
 Montgomery, Alabama 36104
 (b) Criminal docket or case number (if you know): _____
- (a) Date of the judgment of conviction (if you know): _____
 07/26/2006
 (b) Date of sentencing: 07/26/2006
- Length of sentence: 24 months
- Nature of crime (all counts): Probation Violation

- (a) What was your plea? (Check one)
 (1) Not guilty ☐ (2) Guilty ☒ (3) Nolo contendere (no contest) ☐
 (b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to? _____
 NA

- If you went to trial, what kind of trial did you have? (Check one) Jury ☐ Judge only ☐

7. Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes ☐ No ☒
8. Did you appeal from the judgment of conviction? Yes ☐ No ☒
9. If you did appeal, answer the following:

(a) Name of court: _____

(b) Docket or case number (if you know): _____

(c) Result: _____

(d) Date of result (if you know): _____

(e) Citation to the case (if you know): _____

(f) Grounds raised: _____

- (g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☐ No ☒

If "Yes," answer the following:

(1) Docket or case number (if you know): _____

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

(5) Grounds raised: _____

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications concerning this judgment of conviction in any court?

Yes ☐ No ☒

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes ☐ No ☒

(7) Result: _____

(8) Date of result (if you know): _____

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes ☐ No ☒

(7) Result: _____

(8) Date of result (if you know): _____

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes ☐ No ☒

(2) Second petition: Yes ☐ No ☒

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not: _____

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: My attorney was ineffective

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

On 04/16/2006, I was arrested on state charges. In June 2006, I was picked-up by the U.S. Marshals on a writ and was violated on 07/06/2006. My attorney advised me that he would be present for my state hearings and would have my charges ran-concurrently with my federal sentence of 24 months. I was returned to the custody of Montgomery County. On 10/12/2006, I was also sentenced to 5 years. I remained in custody with the State of Alabama until 05/17/2007. My attorney was present at this state hearing on the aboved mentioned date. My attorney is a federal defender.

(b) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☒

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND TWO: NA

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☐

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND THREE: NA

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☐

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND FOUR: NA _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☐

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: NO

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? Yes ☐ No ☒
If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. _____

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: _____

Mr. Kevin Butler 201 Monroe Street Montgomery Alabama 36104

(b) At arraignment and plea: same

(c) At trial: _____

(d) At sentencing: same

(e) On appeal: NA

(f) In any post-conviction proceeding: NA

(g) On appeal from any ruling against you in a post-conviction proceeding: NA

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: _____

(b) Give the date the other sentence was imposed: NA

(c) Give the length of the other sentence: NA

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☒

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.*

The past year I have been in custody with State of Alabama. Once I was in Federal Corrections Institution, I was advised to address the court of my situation. I arrived here at FCI - Tallahassee on 06/27/2007.

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of —

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

Therefore, movant asks that the Court grant the following relief: _____

Any fees or costs

or any other relief to which movant may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct
and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on August 20, 2007
_____ (month, date, year).

Executed (signed) on 08/20/2007 (date).

Jolie M. Kirkland
Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not
signing this motion. _____

August 21, 2007

United States of America
Middle District of Alabama
The Clerk of Court
One Church Street
Montgomery, Alabama 36104

RECEIVED

2007 AUG 24 A 11:01

DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

Re: Tobie Melissa Kirkland; 420-27-5686
Case No: 2:03 - CR - 0264-MHT

Dear Clerk of Court:

On April 18, 2006, I was arrested by Montgomery County for TOPI and possession of a forged instrument. I was then picked up, on a writ, by the U.S. Marshal's to be in your court July 26, 2006. On July 26, 2006, I was violated and sentenced to 24 months. I was then returned to Montgomery County for my court appearance. Mr. Kevin Butler assured me that my state judge would drop my state charges, since I had a federal sentence. On, October 12, 2006, Judge Thurman Hobbs, Jr. sentenced me to 5 years with the Department of Corrections to run concurrently with my federal sentence. Mr. Kevin Butler was present at this hearing.

I have been incarcerated since April 18, 2006, and was granted parole on May 17, 2007. On May 21, 2007, the U.S. Marshal's picked me up from State custody. Mr. Kevin Butler was my federal defender and was ineffective. I have attached a motion 2255 to be filed in your court. Mr. Butler was ineffective while representing me at my revocation hearing and my State hearing by not asking your honor to run my sentences concurrently.

Based on the information enclosed and the information raised above, I pray that the court will grant me jail credit.

Sincerely,



Tobie M. Kirkland - 11338-002
Federal Corrections Institution
501 Capital Circle N.E.
Tallahassee, Florida 32301

/enclosures

TALT6 540*23 *
PAGE 001 *

SENTENCE MONITORING
COMPUTATION DATA
AS OF 08-15-2007

* 08-15-2007
* 06:49:43

REGNO...: 11338-002 NAME: KIRKLAND, TOBIE MELISSA

FBI NO.....: 262801DC1 DATE OF BIRTH: 03-31-1975
ARS1.....: TAL/A-DES
UNIT.....: D UNIT QUARTERS.....: D01-003L
DETAINEES.....: NO NOTIFICATIONS: NO

PRE-RELEASE PREPARATION DATE: 12-14-2008

THE FOLLOWING SENTENCE DATA IS FOR THE INMATE'S CURRENT COMMITMENT.
THE INMATE IS PROJECTED FOR RELEASE: 02-14-2009 VIA GCT REL

-----CURRENT JUDGMENT/WARRANT NO: 020 -----

COURT OF JURISDICTION.....: ALABAMA, MIDDLE DISTRICT
DOCKET NUMBER.....: 2:03-CR-0264-MHT
JUDGE.....: THOMPSON
DATE SENTENCED/PROBATION IMPOSED: 04-20-2004
DATE PROBATION REVOKED.....: 07-26-2006
TYPE OF PROBATION REVOKED.....: REG
DATE COMMITTED.....: 05-21-2007
HOW COMMITTED.....: PROBATION VIOL (US OR DC CD)
PROBATION IMPOSED.....: NO

	FELONY ASSESS	MISDMNR ASSESS	FINES	COSTS
NON-COMMITTED.:	\$100.00	\$00.00	\$00.00	\$00.00

RESTITUTION...: PROPERTY: NO SERVICES: NO AMOUNT: \$51,786.39

-----CURRENT OBLIGATION NO: 010 -----

OFFENSE CODE.....: 156
OFF/CHG: 18:2113(B): BANK THEFT

SENTENCE PROCEDURE.....: 3559 PLRA SENTENCE
SENTENCE IMPOSED/TIME TO SERVE.: 24 MONTHS
TERM OF SUPERVISION.....: 3 YEARS
WEEKENDS/OVERNIGHTS INVOLVED...: YES
DATE OF OFFENSE.....: 05-11-1999

G0002 MORE PAGES TO FOLLOW . . .

TALT6 540*23 *
PAGE 002 OF 002 *

SENTENCE MONITORING
COMPUTATION DATA
AS OF 08-15-2007

* 08-15-2007
* 06:49:43

REGNO...: 11338-002 NAME: KIRKLAND, TOBIE MELISSA

-----CURRENT COMPUTATION NO: 020 -----

COMPUTATION 020 WAS LAST UPDATED ON 08-14-2007 AT DSC AUTOMATICALLY

THE FOLLOWING JUDGMENTS, WARRANTS AND OBLIGATIONS ARE INCLUDED IN
CURRENT COMPUTATION 020: 020 010

DATE COMPUTATION BEGAN.....: 05-21-2007
TOTAL TERM IN EFFECT.....: 24 MONTHS
TOTAL TERM IN EFFECT CONVERTED...: 2 YEARS
EARLIEST DATE OF OFFENSE.....: 05-11-1999

JAIL CREDIT.....	FROM DATE	THRU DATE
	12-04-2003	12-04-2003

TOTAL PRIOR CREDIT TIME.....: 1
TOTAL INOPERATIVE TIME.....: 0
TOTAL GCT EARNED AND PROJECTED...: 94
TOTAL GCT EARNED.....: 0
STATUTORY RELEASE DATE PROJECTED: 02-14-2009
SIX MONTH /10% DATE.....: N/A
EXPIRATION FULL TERM DATE.....: 05-19-2009

PROJECTED SATISFACTION DATE.....: 02-14-2009
PROJECTED SATISFACTION METHOD....: GCT REL

REMARKS.....: PROBATION VIOLATOR

G0000 TRANSACTION SUCCESSFULLY COMPLETED

G0005 TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

State of Alabama Unified Judicial System Form C-7 Rev 2/79	<h2 style="margin:0;">CASE ACTION SUMMARY</h2> <h3 style="margin:0;">CONTINUATION</h3>	Case Number <u>CC 06-1093</u> <u>TDH</u>
Style: <u>Tobin Kirkland aka Tobin Kirk</u>		
		Page Number _____ of _____ Pages

DATE	ACTIONS, JUDGMENTS, CASE NOTES
	Court given and considered the sentencing guidelines worksheet. Defendant and attorney appeared for sentencing. Court asked if he/she had anything to say why sentence should not now be pronounced, and Defendant had his/her say.
<u>12/12/06</u>	HOA Enhancements Applicable <u>(Yes)</u> / No Defendant Admits <u>2</u> State proves _____ priors
<u>Rec'd 10-12-06</u>	IT IS ORDERED: <u>All counts</u>
<u>Comp</u>	Sentenced to <u>5</u> yrs. / split to serve _____ yrs. _____ reverse split postpone _____ mo./year Review _____ Concurrent <u>05-731</u> Consecutive _____ _____ To be served in Community Corrections
	Suspended YES <u>(NO)</u> Supervised / Probation <u>5</u> years End of Split Sentence _____ years supervised probation _____ DOC to give 60 day notice prior to E.O.S.
	ENHANCEMENTS: _____ \$1000 / 2000 Enhancement Fine _____ Remit portion completion of SAP _____ Driver License suspended / revoked _____ \$100 DFS fee _____ years School / _____ years Public Housing _____ years Sale under 18
	Boot Camp _____ SAP _____ Review upon completion - YES _____ GED _____ Work Release _____ Community Service _____ hrs. Trash Pickup _____ hrs. Maintain Employment _____ Aftercare _____ AA/NA _____ OTHER: _____
	Restitution \$ <u>0</u> Co-Defendant(s) _____ Jointly and Severally liable Crime Victim \$25.00 / \$50.00 _____ Court Costs <u>✓</u> Attorney Fees \$150.00 / _____ Fine \$ _____ Payment \$ _____ Mo/Week Begin _____ /06 or ½ monies earned _____ while at DOC
	Review / Other _____
	Defendant advised right to appeal. Defendant did / <u>did not</u> reserve issue for appeal or to withdraw the plea. Defendant to be given credit for time served. Appeal Bond set \$ _____

TRUMAN M. HOBBS, JR.
CIRCUIT JUDGE

ACR0372
OPER: DBH
PAGE: 1ALABAMA JUDICIAL INFORMATION SYSTEM
CASE ACTION SUMMARY
CIRCUIT CRIMINAL

CASE: CC 2006 001093.

RUN DATE: 07/20/2006

IN THE CIRCUIT COURT OF MONTGOMERY

JUDGE: 1

STATE OF ALABAMA

VS

RUSH TOBIE MELISSA
2119 FAIRWAY COURT

CASE: CC 2006 001093.00

MONTGOMERY, AL 36116 0000

DOB: 03/31/1975 SEX: F RACE: B HT: 5 05 WT: 155 HR: BLK EYES: BR
 SSN: 420275686 ALIAS NAMES: TOBIE MELISSA KIRKLAND HORTON TRACY R.
 CHARGE01: POSS FORGED INSTR 2N CODE01: CPF2 LIT: POSS FORGED IN TYP: F #: 00
 CHARGE02: POSS FORGED INSTR 2N CODE02: CPF2 TYP: F #: 00
 CHARGE03: THEFT OF PROP 1ST CODE03: TOP1 TYP: F #: 00
 OFFENSE DATE: 12/07/2005 AGENCY/OFFICER: 0030100

DATE WAR/CAP ISS:
 DATE INDICTED: 07/14/2006
 DATE RELEASED:
 BOND AMOUNT: \$3,000.00

DATE ARRESTED: 04/18/2006
 DATE FILED: 07/20/2006
 DATE HEARING:
 SURETIES:

DATE 1: DESC:
 DATE 2: 08/24/2006 DESC: ARRG

TIME: 0000
 TIME: 0830 A

TRACKING NOS: GJ 2006 070067 00 /

DEF/ATY: W Durant

TYPE:

TYPE:

00000

00000

PROSECUTOR:

OTH CSE: GJ200607006700 CHK/TICKET NO: 2006F-676
 COURT REPORTER: SID NO: 013070370 GRAND JURY: 67
 DEF STATUS: JAIL DEMAND: OPER: DBH

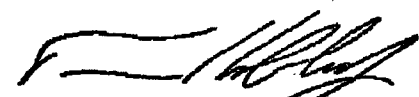
DATE ACTIONS, JUDGEMENTS, AND NOTES

Defendant arraigned Durant
 appointed as attorney 9/27
 Pre-trial date 10/2
 Trial date 10/2
 Y/O hearing ✓
 Defendant pleads not guilty ✓
 Discovery given or not given
 in open court

Truman Hobbs, Jr.

8-28-06 Held in jail until further notice

Oct 2

State of Alabama Unified Judicial System		CASE ACTION SUMMARY		Case Number
Form C-7 Rev 2/79		CONTINUATION		CC 06-1093
Style: <u>Tobie M. Rush</u>		Page Number _____ of _____ Pages		
DATE	ACTIONS, JUDGMENTS, CASE NOTES			
9/28/06	Y.O.A. GRANTED / DENIED.			
	States Motion/Nolle Prose Count(s) _____ Granted			
	State's Motion To Dismiss Count(s) _____ Granted			
	State's Motion to Amend Count _____ to _____ Granted			
	The Defendant is before the Court and is represented. The Court on record fully explained all Constitutional rights. The Court is convinced that Defendant comes into court voluntarily and understands all his rights. Exhibit A is signed by Defendant and counsel and the record affirmatively shows colloquy between the Judge and Defendant and that Defendant fully and completely understands he is waiving his Constitutional rights and other effects of a guilty plea and the consequences thereof and the sentence that could be imposed. Upon the conclusion of said colloquy the Court accepts the guilty plea and finds Defendant guilty and enters a judgment of guilt to the charge of			
	<u>CPII x 2, TOPI</u>			
	Notice of HOA / Drug / Weapon Enhancements given _____			
	P.S.I. ORDERED / WAIVED			
	Sentencing date is <u>Oct. 12</u> , 20 <u>06</u> at 8:30 a.m.			
	 TRUMAN M. HOBBS, JR. CIRCUIT JUDGE			

Federal Corrections Institution
Tobie Kirkland 11338-002
501 Capital Circle N.E.
Tallahassee, Florida 32301



United States of America
Middle District of Alabama
The Clerk of Court
One Church Street
Montgomery, Alabama 36104



27BF, CLOSED, MHT-ClerkC, SC

**U.S. District Court
Alabama Middle District (Montgomery)
CRIMINAL DOCKET FOR CASE #: 2:03-cr-00264-MHT-DRB All Defendants
Internal Use Only**

Case title: USA v. Kirkland

Date Filed: 11/20/2003

Date Terminated: 04/26/2004

Assigned to: Judge Myron H.
Thompson
Referred to: Honorable Delores R. Boyd

Defendant

Tobie Melissa Kirkland (1)
TERMINATED: 04/26/2004

represented by **Joseph Peter Van Heest**
Law Office of Joseph P. Van Heest,
LLC
P.O. Box 4026
402 S Decatur St
Montgomery, AL 36103
334-263-3551
Fax: 334-263-3227
Email: jpvanheestcourts@bellsouth.net
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
*Designation: Public Defender or
Community Defender Appointment*

Kevin L. Butler
Federal Defenders
Middle District of Alabama
201 Monroe Street, Suite 407
Montgomery, AL 36104
334-834-2099
Fax: 834-0353
Email: kevin_butler@fd.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
*Designation: Public Defender or
Community Defender Appointment*

Federal Defender
Federal Defenders
Middle District of Alabama

201 Monroe Street, Suite 1960
Montgomery, AL 36104
334-834-2099
Fax: 834-0353
Email: ECFCMALM@fd.org
*Designation: Public Defender or
Community Defender Appointment*

Pending Counts

18:2113(b) ROBBERY OF
PROPERTY OR MONEY > \$100 -
NMT \$250,000, [*]; NMT 10Y, B;
NMT 3Y SUP REL; \$100 SA; VWPA;
G-LINES
(1s)

Disposition

5 Years Probation; \$100 SA;
\$18,312.20 Restitution. 7/6/06:
REVOKED - 24 Mos Imp; 3 Yrs Sup
Rel Restitution \$51,786.39 (included
additional restitution in the amount of
\$33,474.19)

Highest Offense Level (Opening)

Felony

Terminated Counts

18:1344 BANK FRAUD - NMT
\$1,000,000; [*]; NMT 30Y; B; NMT
5Y SUP REL; G-LINES; VWPA; \$100
SA
(1)

Disposition

DISMISSED ON GOVERNMENT'S
MOTION

Highest Offense Level (Terminated)

Felony

Complaints

None

Disposition

Plaintiff

United States of America

represented by **Stephen P. Feaga**
U.S. Attorney's Office
PO Box 197
Montgomery, AL 36101-0197
334-223-7280
Fax: 223-7560
Email: steve.feaga@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Tommie Brown Hardwick
 U.S. Attorney's Office
 PO Box 197
 Montgomery, AL 36101-0197
 334-223-7280
 Fax: 334-223-7135
 Email: tommie.hardwick@usdoj.gov
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
11/20/2003	1	INDICTMENT as to Tobie Melissa Kirkland (1) count(s) 1 (jct) (Entered: 11/24/2003)
11/20/2003		(Court only) **Added Government Attorney Stephen P. Feaga as to Tobie Melissa Kirkland (jct) (Entered: 11/24/2003)
11/20/2003		(Court only) **Added party Tobie Melissa Kirkland, US Marshals Service, Montgomery U.S. Probation, U.S. Pretrial, USA Financial Unit (jct) (Entered: 11/24/2003)
11/20/2003		Magistrate Judge Delores R. Boyd assigned to case for discovery matters as well as matters subsequently referred by District Judge . (jct) (Entered: 11/24/2003)
11/20/2003		(jct) (Entered: 11/24/2003)
11/24/2003	2	Arrest WARRANT issued as to Tobie Melissa Kirkland (jct) (Entered: 11/24/2003)
12/04/2003		ARREST of Tobie Melissa Kirkland (sql) (Entered: 12/05/2003)
12/04/2003	3	CJA 23 FINANCIAL AFFIDAVIT by Tobie Melissa Kirkland (sql) (Entered: 12/05/2003)
12/04/2003		ORAL ORDER as to Tobie Melissa Kirkland , Appointing Federal Public Defender (Entered by Mag. Judge Delores R. Boyd) (sql) (Entered: 12/05/2003)
12/04/2003		(Court only) **Added for Tobie Melissa Kirkland Attorney Federal Defender (sql) (Entered: 12/05/2003)
12/04/2003		Initial appearance as to Tobie Melissa Kirkland held before Mag. Judge Delores R. Boyd on 12/4/03 (Defendant informed of rights.) (sql) (Entered: 12/05/2003)
12/04/2003		ARRAIGNMENT as to Tobie Melissa Kirkland held before Mag. Judge Delores R. Boyd on 12/4/03 Defendant(s) appeared with counsel and after having been advised of Defendant(s)' rights, entered a plea of not guilty. [FTR: 2:54 - 3:14 pm] (sql) (Entered: 12/05/2003)

12/04/2003		PLEA of Not Guilty: Tobie Melissa Kirkland (1) count(s) 1 ; Court accepts plea. (sql) (Entered: 12/05/2003)
12/04/2003	4	Courtroom Deputy's Minutes as to Tobie Melissa Kirkland of initial appearance and arraignment.: (sql) (Entered: 12/05/2003)
12/04/2003	<u>5</u>	ORDER Setting Conditions of Release as to Tobie Melissa Kirkland Bond set to \$25,000 non-surety for Tobie Melissa Kirkland. (Signed by Mag. Judge Delores R. Boyd) Copies mailed to: deft, Copies furnished to: usa, ptso, uspo, cdo, usm (sql) (Entered: 12/05/2003)
12/04/2003	<u>6</u>	BOND entered by Tobie Melissa Kirkland Bond set to \$25,000 non-surety for Tobie Melissa Kirkland. (sql) (Entered: 12/05/2003)
12/08/2003	<u>7</u>	ORDER on Arraignment as to Tobie Melissa Kirkland that all discovery shall be conducted according to this court's standing order on criminal discovery; directing that Discovery by the government is due on or before 12/12/03 for Tobie Melissa Kirkland; Disclosures by the defendant are due by 12/19/03; Pretrial Motions due by 1/7/04 for Tobie Melissa Kirkland ; Pretrial Conference is set for 2:30 p.m.on 1/12/04 for Tobie Melissa Kirkland in U.S. Courthouse before Mag. Judge Delores R. Boyd; that any requested voir dire questions and jury instructions must be field no later than 1/20/04; Jury Trial set for 1/26/04 for Tobie Melissa Kirkland in U.S. Courthouse before Unassigned Judge and government response to pretrial motions due 10 days from motion filing date. (Signed by Mag. Judge Delores R. Boyd Copies mailed to: Deft, Copies furnished to: USA, USM, USPO, USPTS, FD, SC, SL, YG, HC, WR (ws) (Entered: 12/08/2003)
12/08/2003	8	Arrest WARRANT Returned Executed as to Tobie Melissa Kirkland on 12/4/03 (snc) (Entered: 12/08/2003)
12/08/2003	9	NOTICE of Appearance for Tobie Melissa Kirkland by Attorney Joseph Peter Van Heest (ws) (Entered: 12/08/2003)
01/07/2004		Deadline updated as to Tobie Melissa Kirkland, set Pretrial Conference for for 2:30 1/12/04 for Tobie Melissa Kirkland at Courtroom 4A before Mag. Judge Delores R. Boyd in Courtroom 4A (sql) (Entered: 01/07/2004)
01/12/2004		Pre-trial conference as to Tobie Melissa Kirkland held before Mag. Judge Delores R. Boyd on 1/12/04 [FTR: 2:56 - 2:58 pm] (sql) (Entered: 01/13/2004)
01/12/2004	10	Courtroom Deputy's Minutes as to Tobie Melissa Kirkland of pre-trial conference.: (sql) (Entered: 01/13/2004)
01/13/2004	<u>11</u>	PRETRIAL CONFERENCE ORDER as to Tobie Melissa Kirkland setting Jury Selection for 1/26/04, before Judge Myron H. Thompson , setting Jury Trial on 1/26/04 before Judge Myron H. Thompson , setting voir dire questions deadline for 1/20/04 , setting Motion in limine Filing deadline for 1/20/04 , setting proposed jury instructions due on 1/20/04 ,

		setting Plea Agreement deadline for 1/20/04 (Signed by Mag. Judge Delores R. Boyd) Copies mailed to: dft, Copies furnished to: counsel, usa, usm, uspo, uspts, yg, hc (snc) (Entered: 01/13/2004)
01/13/2004		CASE assigned to Judge Myron H. Thompson (snc) (Entered: 01/13/2004)
01/13/2004	12	NOTICE of Intent to Change Plea by Tobie Melissa Kirkland (snc) (Entered: 01/14/2004)
01/14/2004	<u>13</u>	ORDER as to Tobie Melissa Kirkland referring the defendant to the Magistrate Judge for guilty plea proceedings (Signed by Judge Myron H. Thompson) Copies mailed to: dft, Copies furnished to: counsel, usa (snc) (Entered: 01/14/2004)
01/15/2004	<u>14</u>	ORDER as to Tobie Melissa Kirkland setting Change of Plea Hearing for 3:00 1/20/04 before Mag. Judge Delores R. Boyd in Courtroom 4A , directing the Clerk to provide a court reporter, and directing the USM to produce the defendant, if in custody (Signed by Mag. Judge Delores R. Boyd) Copies mailed to: dft, Copies furnished to: counsel, usa, usm, uspo, uspts, sl, hc, yg (snc) (Entered: 01/15/2004)
01/16/2004	15	INFORMATION as to Tobie Melissa Kirkland (1) count(s) 1s (sql) (Entered: 01/22/2004)
01/20/2004	16	CONSENT TO ENTER PLEA BEFORE A U. S. MAGISTRATE JUDGE by Tobie Melissa Kirkland and counsel, Joe Van Heest, in a felony case. (sql) (Entered: 01/22/2004)
01/20/2004	17	WAIVER OF INDICTMENT by Tobie Melissa Kirkland (sql) (Entered: 01/22/2004)
01/20/2004	<u>18</u>	Plea Agreement as to Tobie Melissa Kirkland (sql) (Entered: 01/22/2004)
01/20/2004		Change of Plea hearing held in order for defendant to change his/her plea to a plea of, Guilty: Tobie Melissa Kirkland (1) count(s) 1s . Court will recommend acceptance of plea. [Dickens - reporter] (sql) (Entered: 01/22/2004)
01/20/2004	19	Courtroom Deputy's Minutes as to Tobie Melissa Kirkland of change of plea hearing.: (sql) (Entered: 01/22/2004)
01/20/2004	<u>20</u>	ORDER as to Tobie Melissa Kirkland releasing defendant pending sentencing as further set out. (Signed by Mag. Judge Delores R. Boyd) Copies mailed to: deft, Copies furnished to: usa, ptso, uspo, cdo, usm (sql) (Entered: 01/22/2004)
01/22/2004	<u>21</u>	REPORT AND RECOMMENDATIONS of Mag. Judge Delores R. Boyd as to Tobie Melissa Kirkland Re: Plea of Guilty, Objections due by 2/4/04 [21-1] report and recommendations Copies mailed to: Deft, Copies furnished to: USA, USM, USPO, USPTS, FD, SC, SL (ws) (Entered: 01/22/2004)

02/02/2004	<u>22</u>	ORDER as to Tobie Melissa Kirkland accepting the defendant's plea of guilty and adjudicating him guilty , and directing that applicable deadlines be terminated and that applicable motions be denied as moot (Signed by Judge Myron H. Thompson) Copies mailed to: dft, Copies furnished to: counsel, usa, usm, uspo, uspts (snc) (Entered: 02/02/2004)
02/02/2004	<u>23</u>	ORDER as to Tobie Melissa Kirkland setting Sentencing for 9:00 4/20/04 before Judge Myron H. Thompson in Courtroom 2E , directing counsel to communicate in writing to the PO by 3/29/04 any objections to the PSR, and directing parties to be available for a conference with PO on 3/31/04 at 11:00 a.m., as outlined in order (Signed by Judge Myron H. Thompson) Copies mailed to: dft, furnished to: counsel, usa, usm, uspo, uspts, yg, hc (snc) (Entered: 02/02/2004)
04/15/2004	<u>24</u>	MOTION for Downward Departure by Tobie Melissa Kirkland. (Van Heest, Joseph) (Entered: 04/15/2004)
04/20/2004		Payment Received: as to Tobie Melissa Kirkland \$ 100.00 assessment payment; receipt number 101884 (ws,) (Entered: 04/20/2004)
04/20/2004		SENTENCING HEARING held before Judge Myron H. Thompson on 4/20/2004 for defendant Tobie Melissa Kirkland as to count 1s. (Court Reporter Mitchell Reisner.) (snc) (Entered: 04/23/2004)
04/20/2004		ORAL ORDER granting defendant's <u>24</u> Motion for Downward Departure as to Tobie Melissa Kirkland (1). Signed by Judge Myron H. Thompson on 4/20/2004. (snc) (Entered: 04/23/2004)
04/20/2004	<u>25</u>	Minute Entry for Sentencing Hearing held before Judge Myron H. Thompson on 4/20/2004 for Tobie Melissa Kirkland (1). Count 1s: 5 Years Probation; \$100 SA; \$18,312.20 Restitution. (Court Reporter Mitchell Reisner.) (snc) (Entered: 04/23/2004)
04/26/2004	<u>26</u>	JUDGMENT as to Tobie Melissa Kirkland (1). Count 1: DISMISSED ON GOVERNMENT'S MOTION; Count 1s: 5 Years Probation, to include 4 months HC; \$100 SA; \$18,312.20 Restitution . Signed by Judge Myron H. Thompson on 4/26/2004. (snc) (Entered: 04/26/2004)
04/26/2004		(Court only) ***Set/Clear Flags as to Tobie Melissa Kirkland, ***Case Terminated as to Tobie Melissa Kirkland (snc) (Entered: 04/26/2004)
06/18/2004		(Court only) Payment Received: as to Tobie Melissa Kirkland \$ 300.00 rest.payment; receipt number 102690 (ws) (Entered: 06/21/2004)
08/23/2004		(Court only) Payment Received: as to Tobie Melissa Kirkland \$ 300.00 rest. payment; receipt number 103313 (ws,) (Entered: 08/23/2004)
11/17/2004		(Court only) Payment Received: as to Tobie Melissa Kirkland \$ 150.00 rest. payment; receipt number 104465 (ws,) (Entered: 11/18/2004)
02/14/2005		(Court only) Payment Received: as to Tobie Melissa Kirkland \$ 160.00 rest. payment, receipt number 105343 (ws,) (Entered: 02/15/2005)

03/18/2005		(Court only) Payment Received: as to Tobie Melissa Kirkland \$ 150.00 rest. payment, receipt number 105720 (ws,) (Entered: 03/21/2005)
04/18/2005		(Court only) Payment Received: as to Tobie Melissa Kirkland \$ 200.00 rest. payment, receipt number 106017 (ws,) (Entered: 04/19/2005)
06/02/2005		(Court only) Payment Received: as to Tobie Melissa Kirkland \$ 300.00 rest. payment, receipt number 106522 (ws,) (Entered: 06/07/2005)
09/16/2005	<u>27</u>	PETITION for Modifying Conditions of Supervision with Consent of the Offender by USPO as to Tobie Melissa Kirkland. (Attachments: # 1)(Wright, Scott) (Entered: 09/16/2005)
09/16/2005		(Court only) Payment Received: as to Tobie Melissa Kirkland \$ 200.00 rest. payment, receipt number 107691 (ws,) (Entered: 09/16/2005)
09/19/2005	<u>28</u>	ORDER granting <u>27</u> Motion to Modify Conditions of Supervision as to Tobie Melissa Kirkland (1) as follows: The defendant shall serve four (4) consecutive weekends in a jail facility to be designated by the FBOP, as outlined in order. Signed by Judge Myron H. Thompson on 9/19/05. (snc) (Entered: 09/19/2005)
10/18/2005		(Court only) Payment Received: as to Tobie Melissa Kirkland \$ 300.00 rest. payment, receipt number 108001 (ws,) (Entered: 10/18/2005)
11/17/2005		(Court only) Payment Received: as to Tobie Melissa Kirkland \$ 300.00 rest. payment, receipt number 108468 (ws,) (Entered: 11/18/2005)
11/29/2005	<u>29</u>	NONCOMPLIANCE SUMMARY by United States Probation Officer as to Tobie Melissa Kirkland (filed as directed by the Court) (snc) (Entered: 12/06/2005)
12/06/2005	<u>30</u>	ORDER as to Tobie Melissa Kirkland setting the non-compliance summary, dated 11/28/05, for a Status Conference on 12/21/2005 02:00 PM in Courtroom 2E before Honorable Myron H. Thompson. The defendant and her attorney along with the government and the PO are to be present at the conference. Signed by Judge Myron H. Thompson on 12/6/05. (snc) (Entered: 12/06/2005)
12/09/2005	<u>31</u>	CJA 23 Financial Affidavit by Tobie Melissa Kirkland (snc) (Entered: 12/09/2005)
12/09/2005	<u>32</u>	AMENDED NONCOMPLIANCE SUMMARY by United States Probation as to Tobie Melissa Kirkland (snc) (Entered: 12/09/2005)
12/12/2005	<u>33</u>	ORDER as to Tobie Melissa Kirkland setting Status Conference on the supplemental non-compliance summary for 12/21/2005 02:00 PM in Courtroom 2E before Honorable Myron H. Thompson, and directing the clerk to arrange for the appointment of counsel for defendant Kirkland. Signed by Judge Myron H. Thompson on 12/12/05. (snc) (Entered: 12/12/2005)

12/20/2005		(Court only) ***Set/Clear Flag ("C") as to Tobie Melissa Kirkland (snc) (Entered: 12/20/2005)
12/21/2005	● <u>34</u>	NOTICE OF ATTORNEY APPEARANCE Tommie Brown Hardwick appearing for USA. (Hardwick, Tommie) (Entered: 12/21/2005)
12/21/2005	● <u>35</u>	Minute Entry for STATUS CONFERENCE held before Judge Myron H. Thompson as to Tobie Melissa Kirkland on 12/21/2005 re <u>29</u> noncompliance summary and <u>32</u> amended noncompliance summary (Court Reporter Mitchell Reisner.) (snc) (Entered: 12/22/2005)
12/21/2005		(Court only) Payment Received: as to Tobie Melissa Kirkland \$ 160.00 rest. payment, receipt number 108778 (ws,) (Entered: 01/05/2006)
12/23/2005	● <u>36</u>	ORDER TO SHOW CAUSE as to Tobie Melissa Kirkland re non-compliance summaries <u>29</u> and <u>32</u> directing the defendant to appear on 2/27/2006 10:00 AM in Courtroom 2E before Honorable Myron H. Thompson to Show Cause why her probation should not be revoked. Signed by Judge Myron H. Thompson on 12/23/05. (snc) (Entered: 12/23/2005)
01/04/2006	● <u>37</u>	NOTICE OF ATTORNEY APPEARANCE: Kevin L. Butler appearing for Tobie Melissa Kirkland (Butler, Kevin) (Entered: 01/04/2006)
02/16/2006	● <u>38</u>	MOTION to Continue <i>REVOCATION HEARING (UNOPPOSED)</i> by Tobie Melissa Kirkland. (Butler, Kevin) (Entered: 02/16/2006)
02/21/2006	● <u>39</u>	ORDER as to Tobie Melissa Kirkland (1) granting <u>38</u> MOTION to Continue <i>REVOCATION HEARING (UNOPPOSED)</i> filed by Tobie Melissa Kirkland, and (2) resetting Revocation Hearing (show cause hearing), now set for 2/27/06, for 4/4/2006 10:00 AM in Courtroom 2E before Honorable Myron H. Thompson. Signed by Judge Myron H. Thompson on 2/21/06. (snc) (Entered: 02/21/2006)
04/04/2006	● <u>40</u>	Minute Entry for Show Cause Hearing re: Revocation Issue (Noncompliance Summaries, Doc. <u>29</u> & <u>32</u> held before Judge Myron H. Thompson as to Tobie Melissa Kirkland on 4/4/2006 (Court Reporter Mitchell Reisner.) (Attachments: # <u>1</u> Exhibit List; located in expansion folder with case file) (ag,) (Entered: 04/04/2006)
04/04/2006	● <u>41</u>	ORDER as to Tobie Melissa Kirkland directing that the defendant's term of probation is continued . Signed by Judge Myron H. Thompson on 4/4/06. (snc,) (Entered: 04/04/2006)
04/25/2006	● <u>42</u>	Petition for Revocation of Probation for Tobie Melissa Kirkland (1) on Count 1s and SEALED MOTION for issuance of warrant by United States of America as to Tobie Melissa Kirkland. (snc,) Modified on 4/28/2006 (snc): notice of USM that detainer lodged with Montgomery County Jail (Entered: 04/25/2006)
04/25/2006	● <u>43</u>	Limits of Punishment as to Tobie Melissa Kirkland: (snc) (Entered: 04/25/2006)

04/27/2006	● <u>44</u>	ORDER granting Sealed Motion (incorporated in <u>42</u> petition) as to Tobie Melissa Kirkland (1). Signed by Judge Myron H. Thompson on 4/27/06. (snc) Modified on 4/28/2006 (snc): Unsealed pursuant to notice from USM that detainer lodged with Montgomery County Jail (Entered: 04/27/2006)
05/04/2006	● <u>45</u>	ORDER as to Tobie Melissa Kirkland setting Probation Revocation Hearing for 5/18/2006 10:00 AM in Courtroom 2FMJ before Honorable Myron H. Thompson, APPOINTING FEDERAL PUBLIC DEFENDER as to Tobie Melissa Kirkland . Signed by Judge Myron H. Thompson on 5/4/2006. (ag,) (Entered: 05/04/2006)
05/05/2006	● <u>46</u>	MOTION for Writ of Habeas Corpus ad prosequendum by United States of America as to Tobie Melissa Kirkland. (Attachments: # <u>1</u> Text of Proposed Order)(Feaga, Stephen) (Entered: 05/05/2006)
05/05/2006	● <u>47</u>	ORDER granting <u>46</u> Motion for Writ of Habeas Corpus ad prosequendum as to Tobie Melissa Kirkland (1), directing the Clerk to issue a whcap addressed to Montgomery County Jail for defendant's appearance on 5/18/06, and directing the USM to return said prison to said official when the Court shall have finished with her.. Signed by Judge Delores R. Boyd on 05/5/06. (snc) (Entered: 05/05/2006)
05/08/2006	● <u>48</u>	Writ of Habeas Corpus ad Prosequendum Issued as to Tobie Melissa Kirkland for 5/18/2006 (revocation hearing before Judge Thompson). (ag,) (Entered: 05/08/2006)
05/09/2006	● <u>49</u>	NOTICE OF ATTORNEY APPEARANCE: Kevin L. Butler appearing for Tobie Melissa Kirkland (Butler, Kevin) (Entered: 05/09/2006)
05/17/2006	● <u>50</u>	ORDER as to Tobie Melissa Kirkland resetting Probation Revocation Hearing (previously set for 5/18/06 @ 10:00 am) to 6/22/2006 10:00 AM in Courtroom 2FMJ before Honorable Myron H. Thompson. Signed by Judge Myron H. Thompson on 5/17/2006. (ag,) (Entered: 05/17/2006)
05/17/2006	● <u>51</u>	Arrest Warrant Returned Executed in case as to Tobie Melissa Kirkland. Defendant WHCAP Mtgy Co Jail on 5/17/2006. (sql,) (Entered: 05/18/2006)
06/16/2006	● <u>52</u>	ORDER as to Tobie Melissa Kirkland resetting Final Probation Revocation Hearing now set for 6/22/2006 to 7/6/2006 @ 10:00 AM in Courtroom 2FMJ before Honorable Myron H. Thompson. Signed by Judge Myron H. Thompson on 6/16/2006. (ag,) (Entered: 06/16/2006)
07/06/2006	● <u>53</u>	Minute Entry for Probation Revocation Hearing as to Tobie Melissa Kirkland held on 7/6/2006 before Judge Myron H. Thompson. (Court Reporter Mitchell Reisner.) (Attachments: # <u>1</u> Exhibit List) (ag,) (Entered: 07/06/2006)
07/06/2006	● <u>54</u>	JUDGMENT ON REVOCATION as to Tobie Melissa Kirkland (1), the term of Probation imposed on 4/20/04 is REVOKED; defendant sentenced to 24 Mos Imp; 3 Yrs Sup Rel Restitution \$51,786.39 (included additional

		restitution in the amount of \$33,474.19) . Signed by Judge Myron H. Thompson on 7/6/2006. (ag,) (Entered: 07/06/2006)
07/06/2006		(Court only) ***Motions terminated as to Tobie Melissa Kirkland: <u>42</u> Petition for Revocation of Probation for Tobie Melissa Kirkland (1) on Count 1s pursuant to recovation during 7/6/06 hearing. (ag,) (Entered: 07/06/2006)
07/26/2006	<u>55</u>	AMENDED JUDGMENT ON REVOCATION as to Tobie Melissa Kirkland (1), the term of Probation imposed on 4/20/04 is REVOKED; defendant sentenced to 24 Mos Imp; 3 Yrs Sup Rel; Restitution \$51,786.39 (included additional restitution in the amount of \$33,474.19) . Signed by Judge Myron H. Thompson on 7/26/2006. (ag,) (Entered: 07/26/2006)
07/05/2007	<u>56</u>	Judgment Returned Executed as to Tobie Melissa Kirkland, defendant delivered to FCI Tallahassee, FL on 6/26/07. (ag,) (Entered: 07/06/2007)
07/05/2007	<u>57</u>	Amended Judgment Returned Executed as to Tobie Melissa Kirkland, defendant delivered to FCI Tallahassee, FL on 6/26/07. (ag,) (Entered: 07/06/2007)

UNITED STATES DISTRICT COURT

MIDDLE

District of

ALABAMA

UNITED STATES OF AMERICA
V.**AMENDED JUDGMENT IN A CRIMINAL CASE**
(For Revocation of Probation or Supervised Release)

TOBIE MELISSA KIRKLAND

Case Number: 2:03-cr-0264-MHT
(WO)

USM Number: 11338-002

Kevin L. Butler
Defendant's Attorney**THE DEFENDANT:**☐ admitted guilty to violation of condition(s) _____ of the term of supervision.☒ was found in violation of condition(s) 1 of the Petition filed 4/25/06.

The defendant is adjudicated guilty of these violations:

<u>Violation Number</u>	<u>Nature of Violation</u>	<u>Violation Ended</u>
1	The defendant has committed another, federal, state or local crime	04-18-2006

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.☐ The defendant has not violated condition(s) _____ and is discharged as to such violation(s) condition.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

Defendant's Soc. Sec. No.: 000-00-5686Defendant's Date of Birth: 1975

Defendant's Residence Address:

Montgomery, Alabama

Defendant's Mailing Address:

same as aboveJuly 26, 2006

Date of Imposition of Judgment

Myron Thompson

Signature of Judge

MYRON THOMPSON, UNITED STATES DISTRICT JUDGE
Name and Title of Judge7/26/2006

Date

DEFENDANT: TOBIE MELISSA KIRKLAND
CASE NUMBER: 2:03-cr-0264-MHT

Judgment — Page 2 of 6

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of :
24 MONTHS. The term of probation imposed on April 20, 2004, is REVOKED.

☐ The court makes the following recommendations to the Bureau of Prisons:

X The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

a _____ with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: TOBIE MELISSA KIRKLAND
 CASE NUMBER: 2:03-cr-0264-MHT

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SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :
THREE YEARS

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☐ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is be a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: TOBIE MELISSA KIRKLAND
CASE NUMBER: 2:03-cr-0264-MHT

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SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall participate in a substance abuse treatment program as scheduled by the probation officer. She shall contribute to the cost of any treatment based on ability to pay and availability of third party payments.
2. The defendant shall participate in a mental health treatment program as scheduled by the probation officer. She shall contribute to the cost of any treatment based on her ability to pay and availability of third party payments.
3. The defendant shall submit to a search of her person, residence, office, and vehicle pursuant to the search policy of this Court.
4. The defendant shall provide the probation officer any requested financial information.
5. The defendant shall not incur new credit card accounts or checking accounts unless approved by the probation officer.
6. The defendant shall pay additional restitution in the amount of \$33,474.19 as a result of this probation violation as well as any remaining balance of the restitution due as a result of the original offense in this case.

DEFENDANT: TOBIE MELISSA KIRKLAND
CASE NUMBER: 2:03-cr-0264-MHT

Judgment — Page 5 of 6**CRIMINAL MONETARY PENALTIES**

The defendant must pay the following total criminal monetary penalties under the schedule of payments set forth on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100	\$	\$ 51,786.39

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case*(AO 245C) will be entered after such determination.

☐ The defendant shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Regions Financial Corporation ATTN: L.R. Smith Security Department 25 Washington Ave. 2 nd FL Montgomery, AL 36104		\$18,312.20	
A&B Check Cashing 2415 East South Boulevard Montgomery AL		\$17,289.74	
Daehan Solutions AL, LLC 9101 County Road 26 Hope Hull, AL 36043		\$13,577.25	
Regions Bank 25 Washington Ave. Montgomery, AL 36104 Re: Chris Hudgins		\$2,607.20	

TOTALS \$ _____ \$ 51,786.39

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☒ The defendant must pay interest on restitution or a fine more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

AO 245D (Rev. 12/03) Judgment in a Criminal Case for Revocations
Sheet 6 — Schedule of Payments

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DEFENDANT: TOBIE MELISSA KIRKLAND
CASE NUMBER: 2:03-cr-0264MHT

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- A ☒ Lump sum payment of \$ 51,786.39 due immediately, balance due
- ☐ not later than _____, or
☐ in accordance with ☐ C, ☐ D, ☐ E, or ☐ F below); or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay.
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
All criminal monetary penalty payments shall be made to the Clerk, United States District Court, Middle District of Alabama, Post Office Box 711, Montgomery, Alabama 36101.
The defendant shall pay the balance of any restitution due in this case immediately. Any balance which remains unpaid at the commencement of supervision shall be paid in monthly installments of not less than \$150.00 to commence within the first 30 days of supervision.

Unless the court has expressly ordered otherwise in the special instruction above, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Joint and Several Amount and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States: